

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA

V.

**JOHN KOSTA (1),
Defendant.**

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Criminal No. 12-10226-DJC

**MOTION FOR STAY PENDING
REVIEW OF A RELEASE ORDER**

The United States, by and through its attorneys, Carmen M. Ortiz, United States Attorney for the District of Massachusetts and Leah Foley, Assistant United States Attorney, hereby files this *Motion For Stay Pending Review of a Release Order* in the above-captioned case. At a hearing held on January 2, 2013, your Honor issued an Order setting Conditions of Release for defendant John Kosta.¹ The Court requested that the government file a pleading requesting that the order of release be stayed pending government appeal. As the Court is aware, the undersigned Assistant United States Attorney returned to the office from leave on January 3, 2013. The government will file its motion requesting Judge Casper to review this Court's release order on or before January 4, 2013, and will be seeking a prompt hearing on the matter before Judge Casper. Pursuant to Local Magistrates Rule 2(c), the government hereby respectfully requests that this Court stay its Order of release pending a ruling by Judge Casper.

As the Court is aware, defendant is charged in an indictment with serious drug and gun

¹ The detention hearing for this defendant began on August 9, 2012. At the conclusion of the government's evidence, the defendant voluntarily agreed to detention. Subsequently, the defendant moved for release. On November 19, 2012, further evidence was presented by both sides at a detention hearing.

offenses which carry lengthy mandatory minimum sentences upon conviction. Defendant is also charged in conspiracy counts for drug trafficking and for money laundering. One of the charged drug co-conspirators, Fidencio Serrano-Esquer, remains a fugitive and is believed to be in Mexico. Given the serious nature of the charges in the indictment and for the reasons articulated at the defendant's detention hearings, the government believes detention pending a ruling by Judge Casper is justified. *See United States v. Huckabay*, 707 F.Supp. 35, 36-37 (D. Maine 1989). Accordingly, the government respectfully requests that this Court stay its Order of release until Judge Casper has the opportunity to schedule a hearing and issue a ruling.

Respectfully Submitted,

CARMEN M. ORTIZ
United States Attorney

By: /s/ Leah Foley
LEAH FOLEY
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

This is to certify that a copy of this motion was served on counsel for defendant via the Court's electronic filing system.

By: /s/ Leah Foley
Leah Foley
Assistant U.S. Attorney